File: 5014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Sprogis   GROUP: 3622

SERIAL NO: 09/627,870   EXAMINER: Myhre, J.

FILED: July 28, 2000

FOR: SYSTEM AND METHOD FOR DIGITALLY PROVIDING
                     AND DISPLAYING ADVERTISEMENT INFORMATION
                     TO CINEMAS AND THEATRES

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF AMENDED APPEAL BRIEF (PATENT APPLICATION--37 CFR 192)

1.   Transmitted herewith in triplicate is the revised APPEAL BRIEF in this application with respect to the Notice of Appeal filed on October 31, 2005 and the Notification of Non-Compliant Appeal Brief mailed on May 9, 2006. A copy of the Notification of Non-Compliant Appeal Brief is enclosed.

NOTE:"The appellant shall, within 2 months from the date of the notice of appeal under 1.191 in an application, reissue application, or patent under reexamination, or within the time allowed for response to the action appealed from, if such time is later, file a brief *in triplicate.*" 37 CFR 1.192(a) [emphasis added]

2.   <u>STATUS OF APPLICANT</u>

This application is on behalf of

    <u>X</u>   a small entity

3.   <u>FEE FOR FILING APPEAL BRIEF</u>

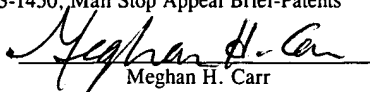Pursuant to 37 CFR 1.17(f) the fee for filing the Appeal Brief is:

—   small entity $250.00

—   other than a small entity $500.00

                  Appeal Brief fee due $ PREVIOUSLY PAID

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4.   <u>EXTENSION OF TERM</u>

NOTE: The time periods set forth in 37 CFR 1.192(a) are subject to the provision of 1.136 for patent applications. 37 CFR 1.191(d). Also see Notice of November 5, 1985 (1060 O.G. 27).

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136 apply.

(complete (a) or (b) as applicable)

(a)   _   Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-d)) for the total number of months checked below:

Extension (months)	Fee for other than small entity	Fee for small entity
_ one month	$120.00	$60.00
_ two months	$450.00	$225.00
_ three months	$1,020.00	$510.00
_ four months	$1,590.00	$795.00

Fee $

If an additional extension of time is required please consider this a petition therefor.

(check and complete the next item, if applicable)

_   An extension for _____ months has already been secured and the fee paid therefor of $_____ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request $

or

(b)   <u>X</u>   Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

5. TOTAL FEE DUE

The total fee due is:

Appeal brief fee $

Extension fee (if any) $

TOTAL FEE DUE: $

6. FEE PAYMENT

___ Attached is a check in the sum of $

___ Charge Account No. __19-0079__ the sum of _____ .

A duplicate of this transmittal is attached.

7. FEE DEFICIENCY

NOTE: If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986, 1065 O.G. 31-33.

X If any additional extension and/or fee is required, this is a request therefor and to charge Account No. 19-0079.
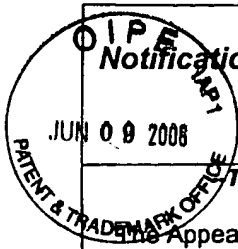
AND/OR

X If any additional fee for claims is required, charge Account No. 19-0079.

Respectfully submitted,

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Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No.	Applicant(s)
	09/627,870	SPROGIS, DAVID H.
	Examiner	Art Unit
	Jeffrey D. Carlson	3622

The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on <u>24 February 2006</u> is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.

2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).

3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).

4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).

5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))

6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).

7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).

8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).

9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).

10. ☒ Other (including any explanation in support of the above items):

Applicant should review the requirements of rule 41.37. In particular the following are noted:

The status of ~~claims~~ all claims (including 1-26) must be stated.

The summary of claimed subject matter must refer to the specification/figs for each independent claim. Additionally for any means/step plus function recitation in an independent claim or in a dependant claim argued separately, the summary must also refer to the specification/figs.

Any claim(s) argued separately should be argued under a subheading identifying such claim(s). .

Jeffrey D. Carlson
Primary Examiner
Art Unit: 3622

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	Sprogis	**GROUP:**	3622
SERIAL NO:	09/627,870	**EXAMINER:**	Myhre, J.
FILED:	July 28, 2000		
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Alexandria, VA 22313-1450

Sir:

AMENDED APPEAL BRIEF

Pursuant to 35 U.S.C. §134 and 37 C.F.R. §41.31, §41.35 and §41.37, Applicant

respectfully appeals to the Board of Patent Appeals and Interferences from the Examiner's final

rejection of each of claims 27 - 47 of Applicant's Patent Application Ser. No. 10/056,352 filed

July 28, 2000, which claims priority to U.S. Provisional Patent Application Ser. No. 60/148,807

filed August 13, 1999.

I.   Real Party of Interest

The real party of interest in the present application is the assignee of record, Cinecast

LLC.

II.   Related Appeal and Interferences

The present application has no related cases that are the subject of a pending appeal or interference.

III.   Status of Claims

Claims 1 - 26 are cancelled. Each of the pending claims 27 - 47 stands rejected under 35 U.S.C. §103(a), and each of claims 27 - 47 is being appealed.

IV.   Status of Amendments

No amendments have been filed subsequent to the mailing of the final rejection on October 21, 2005 or subsequent to the mailing of the Notice of Panel Decision from Pre-Appeal Brief Review mailed on January 25, 2006.

V.   Summary of Claimed Subject Matter

The present invention involves a system for providing advertisement information to an audience and includes, in part, automated scheduling means for *automatically developing a schedule of advertisements* to be shown at each of a plurality of actual movie showings. In particular, the system automatically matches job requests with actual movie showings, and develops a schedule of advertisements for each actual movie showing based on criteria specified in the claims. Because such schedules must take into account many concerns such as appropriateness of content, avoiding repetition, and variety, this automated scheduling is a complex and dynamic task. Historically, such scheduling was performed for each individual showing by one or more persons.

In further embodiments, the system involves selecting a plurality of job requests associated with each selected actual movie showing. In further embodiments, the invention involves selecting a plurality of selected actual movie showings associated with each selected job request.

In further embodiments, the system includes a movie attendance feedback unit and/or an exposure log generation unit, and in further embodiments, the system provides recording data that is representative of the presentation of advertisements associated with each selected actual movie showing, and in further embodiments the system provides an exposure report.

In further embodiments, the system provides that schedules for each of a plurality of locations are generated, and in accordance with further embodiments, each schedule comprises an entire presentation in advance of a movie. In still further embodiments, the system includes a duplicate resolution means for identifying any duplicates within a schedule.

With regard to claim 27, the invention is directed to a system for providing advertisements (Specification, page 10, lines 20 - 22, page 12, line 17 - page 13, line 16, page 39, lines 2 - 5, reference 14 of Figure 1, and references 356 and 358 of Figure 13) to an audience. The system includes job request means (Specification, page 22, lines 14 - 20, and reference 28, 62, 64, 66 and 68 in Figure 5) for receiving a plurality of job requests (Specification, page 31, lines 11 -13, page 34, lines 13 - 15, reference 206 in Figure 10 and reference 254 of Figure 11). Each job request include data representative of an advertisement and data representative of an advertising schedule request (Specification, page 30, line 6 - page 31, line 2). The data representative of an advertising schedule request includes at least one of a requested movie genre, a requested movie rating, a requested showing location, a requested showing time, a requested movie release start date and a requested movie release end date (Specification, page

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30, line 14 - page 31, line 2, page 34, lines 17 - 18, page 35, lines 3 - 8, page 37, lines 18 - 20, references 172, 174, 178, 180, 182 and 184 in Figure 9, references 262, 264, 266, 268 in Figure 11, references 300, 302, 304, 306 in Figure 12). The system also includes storage means (Specification, page 24, line 23 - page 25, lines 2 and 14 - 18, reference 70 in Figure 5, and references 100 and 102 in Figure 6) for receiving and storing said plurality of job requests. The system also includes actual movie showing storage means (Specification, page 25, line 18 - page 26, line 2, references 96 and 98 in Figure 6) for storing a plurality of actual movie showings. Each actual movie showing includes actual movie showing data that is representative of a movie showing identification and audience common interest data (Specification, page 30, lines 19 - 21, page 35, lines 2 - 8 and reference 184 in Figure 9). The audience common interest data include data is representative of at least one of a movie genre, a movie rating, a showing location, a movie showing time, a movie release start date and a movie release end date (Specification, page 30, line 14 - page 31, line 2, and references 172, 174, 178, 180, 182 and 184 in Figure 9). The system also includes automated selection means (Specification, page 23, lines 5 - 13, page 24 lines 19 - 21, reference 72 in Figure 5 and reference 86 in Figure 6) for selecting a plurality of selected actual movie showings from said plurality of actual movie showings associated with a plurality of selected job requests from said plurality of job requests using a computer processing system to determine a schedule associated with each said selected actual movie showing such that each selected actual movie showing includes at least one of a movie genre, a movie rating, a showing location, a movie showing time, a movie release start date and a movie release end date in common with a movie genre, a movie rating, a showing location, a movie showing time, a movie release start date and a movie release end date of an associated advertising schedule request of each selected job request (Specification, page 23, lines 4 - 6, page 24, lines 19 - 20,

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page 34, lines 17 - 22, page 35, lines 22 - 23, page 37, lines 6 - 13, reference 72 in Figure 5 and reference 86 in Figure 6). The system also includes presentation means (Specification, page 15, line 9, page 17, lines 4 and 12, page 18, line 14, page 23, line 17, and reference 36 in Figures 2, 3 and 5, and reference 52 in Figure 4) for presenting an advertisement associated with each selected job request at each associated selected actual movie showing (Specification, page 35, lines 11 - 12 and reference 270 in Figure 11) in accordance with the associated schedule (Specification, page 34, lines 17 - 18 and reference 260 in Figure 11).

With regard to claim 30, this dependent claim depends from claim 27 and further includes a movie attendance feedback unit (Specification, page 24, line 21, page 32, lines 8 - 11, page 35, lines 12 - 13, page 39, lines 12 - 15, page 40, lines 7 - 8 and 18 - 20, reference 90 in Figure 6, reference 272 in Figure 11 and reference 364 in Figure 14) for receiving data representative of information regarding a number of people attending each selected actual movie showing.

With regard to claim 35, this dependent claim depends from claim 27 and further includes assembling means (Specification, page 23, lines 4 - 11, page 24, lines 20 - 21, page 38, line 15 - page 39, line 11, and reference 72 in Figure 5) for assembling a plurality of frames into a composite frame (Specification, page 10, lines 9 - 10, page 38, lines 20 - 21, reference 10 in Figure 1 and reference 350 in Figure 13).

With regard to claim 38, this independent claim is directed to a system for providing advertisement information (Specification, page 10, lines 20 - 22, page 12, line 17 - page 13, line 16, page 39, lines 2 - 5, reference 14 in Figure 1, and references 356 and 358 in Figure 13) to an audience. The system includes job request means (Specification, page 22, lines 14 - 20, and reference 28, 62, 64, 66 and 68 in Figure 5) for receiving a plurality of job requests

(Specification, page 31, lines 11 -13, page 34, lines 13 - 15, reference 206 of Figure 10 and reference 254 of Figure 11). Each job request includes data representative of a content and data representative of a content schedule request (Specification, page 30, line 6 - page 31, line 2). The data representative of a content schedule request includes at least one of a requested movie genre, a requested movie rating, a requested showing location, a requested showing time, a requested movie release start date and a requested movie release end date (Specification, page 30, line 14 - page 31, line 2, page 34, lines 17 - 18, page 35, lines 3 - 8, page 37, lines 18 - 20, references 172, 174, 178, 180, 182 and 184 in Figure 9, references 262, 264, 266, 268 in Figure 11, references 300, 302, 304, 306 in Figure 12). The system also includes storage means (Specification, page 24, line 23 - page 25, lines 2 and 14 - 18, reference 70 in Figure 5, and references 100 and 102 in Figure 6) for receiving and storing the plurality of job requests. The system also includes actual movie showing storage means (Specification, page 25, line 18 - page 26, line 2, references 96 and 98 in Figure 6) for storing a plurality of actual movie showings. Each actual movie showing includes actual movie showing data that is representative of a movie showing identification and audience common interest data (Specification, page 30, lines 19 - 21, page 35, lines 2 - 8 and reference 184 in Figure 9). The audience common interest data includes data that is representative of at least one of a movie genre, a movie rating, a showing location, a movie showing time, a movie release start date and a movie release end date (Specification, page 30, line 14 - page 31, line 2, and references 172, 174, 178, 180, 182 and 184 in Figure 9). The system also includes an automated scheduling means (Specification, page 23, lines 5 - 13, page 24 lines 19 - 21, and reference 72 in Figure 5, references 86 and 88 in Figure 6) for determining a schedule for each of said actual movie showings using a computer processing system, each such schedule including data identifying data representative of content from a selected plurality of job

requests such that each actual movie showing associated with each schedule includes audience common interest data that matches at least some of the data representative of a content schedule request included with each associated selected job request (Specification, page 23, lines 4 - 6, page 24, lines 19 - 20, page 34, lines 17 - 22, page 35, lines 22 - 23, page 37, lines 6 - 13, reference 72 in Figure 5 and reference 86 in Figure 6). The system also includes a plurality of presentation assemblies (Specification, page 15, lines 7 - 9, page 16, line 21 - page 17, line 8, page 18, lines 14 - 19, reference 30 in Figures 2 and 3 and reference 44 in Figure 4). Each presentation assembly presents content in accordance with the schedule associated with each of said plurality of actual movie showings at a plurality of associated locations (Specification, page 15, lines 7 - 9, page 16, line 21 - page 17, line 8, page 18, lines 14 - 19, reference 30 in Figures 2 and 3 and reference 44 in Figure 4).

With regard to claim 40, this dependent claim depends from claim 38 and further requires that the automated scheduling means includes duplicate resolution means (Specification, page 23, lines 5 - 13, page 24 lines 19 - 21, page 38, lines 11 - 13, page 39, lines 7 - 8, and reference 72 in Figure 5, references 86 and 88 in Figure 6) for identifying any of duplicate content within a schedule of content.

With regard to claim 41, this dependent claim depends from claim 38 and further includes a movie attendance feedback means (Specification, page 24, line 21, page 32, lines 8 - 11, page 35, lines 12 - 13, page 39, lines 12 - 15, page 40, lines 7 - 8 and 18 - 20, reference 90 in Figure 6, reference 272 in Figure 11 and reference 364 in Figure 14) for receiving data representative of information regarding the number of people attending each selected actual movie showing.

With regard to claim 43, this independent method claim is directed to a method of providing advertisement information to an audience. The method includes the steps of receiving a plurality of job requests (Specification, page 22, lines 14 - 20, page 31, lines 11 - 13, page 34, lines 13 - 15, reference 28, 62, 64, 66 and 68 in Figure 5, reference 206 in Figure 10 and reference 254 of Figure 11). Each job request includes data representative of an advertisement and data representative of an advertising schedule request (Specification, page 30, line 6 - page 31, line 2). The data representative of an advertising schedule request includes at least one of a requested movie genre, a requested movie rating, a requested showing location, a requested showing time, a requested movie release start date and a requested movie release end date (Specification, page 30, line 14 - page 31, line 2, page 34, lines 17 - 18, page 35, lines 3 - 8, page 37, lines 18 - 20, references 172, 174, 178, 180, 182 and 184 in Figure 9, references 262, 264, 266, 268 in Figure 11, references 300, 302, 304, 306 in Figure 12). The method also includes the step of storing said plurality of job requests (Specification, page 24, line 23 - page 25, lines 2 and 14 - 18, reference 70 in Figure 5, and references 100 and 102 in Figure 6). The method also includes the step of storing a plurality of actual movie showings (Specification, page 25, line 18 - page 26, line 2, references 96 and 98 in Figure 6). Each actual movie showing includes actual movie showing data that is representative of a movie showing identification and audience common interest data, said audience common interest data including data that is representative of at least one of a movie genre, a movie rating, a showing location, a movie showing time, a movie release start date and a movie release end date (Specification, page 30, lines 19 - 21, page 35, lines 2 - 8 and reference 184 in Figure 9). The method also includes the step of processing the common interest data and said data representative of advertising schedule requests using a computer processing system to determine a schedule for each of said plurality of actual movie

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showings (Specification, page 23, lines 5 - 13, page 24 lines 19 - 21, and reference 72 in Figure 5, references 86 and 88 in Figure 6). Each such schedule includes data associated with a plurality of job requests such that each actual movie showing associated with each schedule includes audience common interest data that matches at least some of the data representative of an advertising schedule request included with each associated job request (Specification, page 23, lines 4 - 6, page 24, lines 19 - 20, page 34, lines 17 - 22, page 35, lines 22 - 23, page 37, lines 6 - 13, reference 72 in Figure 5 and reference 86 in Figure 6). The method also includes the step of presenting advertisements in accordance with the schedule associated with each of the plurality of actual movie showings at a plurality of associated locations (Specification, page 15, lines 7 - 9, page 16, line 21 - page 17, line 8, page 18, lines 14 - 19, reference 30 in Figures 2 and 3 and reference 44 in Figure 4).

With regard to claim 44, this dependent claim depends from method claim 43 and further requires that the step of processing the common interest data and the data representative of schedule requests to determine the schedule for each of said plurality of actual movie showings involves determining an entire presentation in advance of a movie that is scheduled to be shown at the associated actual movie showing (Specification, page 2, lines 12, 13, page 10, lines 7 - 9 and lines 13 - 15, page 12, lines 14 - 16).

With regard to claim 45, this dependent claim depends from method claim 43 and requires that the method further includes the step of receiving data representative of information regarding a number of people attending each of said plurality of actual movie showings (Specification, page 24, line 21, page 32, lines 8 - 11, page 35, lines 12 - 13, page 39, lines 12 - 15, page 40, lines 7 - 8 and 18 - 20, reference 90 in Figure 6, reference 272 in Figure 11 and reference 364 in Figure 14).

With regard to claim 46, this dependent claim depends from method claim 43 and further requires the step of generating an exposure log that includes data representative of the presentation of advertisements associated with said plurality of job requests that are associated with each said schedule for each of said plurality of actual movie showings (Specification, page 24, line 21, page 32, lines 8 - 11, page 35, lines 12 - 13, page 39, lines 12 - 15, page 40, lines 7 - 8 and 18 - 20, page 41, lines 6 - 10, reference 90 in Figure 6, reference 272 in Figure 11, reference 364 in Figure 14 and reference 400 in Figure 15).

With regard to claim 47, this dependent claim depends from claim 43 and further requires the step of assembling a plurality of advertisements of each schedule into a composite frame (Specification, page 23, lines 4 - 11, page 24, lines 20 - 21, page 38, line 15 - page 39, line 11, and reference 72 in Figure 5), and said step of presenting advertisements includes presenting said composite frame (Specification, page 10, lines 9 - 10, page 38, lines 20 - 21, reference 10 in Figure 1 and reference 350 in Figure 13).

VI. Grounds of Rejection to be Reviewed on Appeal

Each claims 27 - 47 stands rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,141,530 (to Rabowsky) in view of U.S. Patent No. 5,907,322 (to Kelley et al.).

VII. Argument

As mentioned above, the present invention involves, in part, *automatically developing a schedule of advertisements* to be shown at each of a plurality of actual movie showings. The schedule of advertisements is developed in accordance with criteria specified in the claims.

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Claim 27

In particular, claim 27 requires that a plurality of job requests are received, each of which includes advertisement data and schedule request data. The schedule request data includes at least one of movie genre, movie rating, showing location, showing time, release start date and release end date. Claim 27 also requires that a plurality of actual movie showings are stored, each of which includes actual movie showing data and audience common interest data. The audience common interest data also includes at least one of movie genre, movie rating, showing location, showing time, release start date and release end date.

Claim 27 also requires an automated selection means for selecting a plurality of selected actual movie showings associated with a plurality of selected job requests using a computer processing system to determine a schedule associated with each selected actual movie showing. This is a dynamic selection process that generates a schedule of advertisements for each selected actual movie showing. Neither of the cited references discloses such a dynamic automated selection process.

The Rabowsky reference discloses a system for distributing movies in a digital format to a plurality of theatres. The system of the Rabowsky reference includes a "headend system", a "theatre system", and a "creator/editor's system" (Rabowsky, col.2, lines 27 - 46). The headend system processes, stores and distributes digitized cinema files to a secure projection system of a theatre system (Rabowsky, col.2, lines 27 - 33). The headend system is disclosed to include a Distribution Management System (DMS) that provides for the scheduling of information to the headend and theatre subsystems, and actuates the operational equipment as scheduled (Rabowsky, col.7, lines 37 - 49). There is no disclosure, however, that the DMS *generates* any schedule, merely that it implements a schedule. The schedule that defines authorized playback

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times for each cinema file and for each screen in the theatre appears to be predefined, not automatically generated by the system (Rabowsky, col.12, lines 9 - 16).

The Rabowsky reference also discloses that each movie may include a trailer (Rabowsky, col.12, lines 15 - 16). The trailer, however, appears to be stored at the central location or headend (Rabowsky, col.12, lines 9 - 16). There is no disclosure in the Rabowsky reference regarding how the trailer is compiled. The Rabowsky reference also states that a theatre operator may make modifications to the schedule (Rabowsky, col.12, lines 17 - 28). Any such modifications, however, are done manually. There is, therefore, no automated scheduling of advertisements disclosed in Rabowsky.

The final office action states that the Rabowsky reference discloses:

> c.   means for automatically selecting (matching) a plurality of actual movie showings with schedule request data associated with a plurality of job requests with matching audience common interest data to determine a schedule (col.7, lines 38-49 and col.12, lines 8-28).

Final office action, page 3.

The Rabowsky reference includes no such disclosure of matching job requests to actual movie showings to create a schedule. The above cited portion of the Rabowsky reference (col.7, lines 38-49 and col.12, lines 8-28) relates to the Distribution Management System (DMS) for distributing digitized cinema files from the Headend to theatres subsystems and relates to the Data File Management System (DFMS) in which non-cinema files are stored and updated as required. Neither the DMS nor the DFMS of the Rabowsky reference involves automatically selecting a plurality of actual movie showings associated with a plurality of selected job requests to determine a schedule.

The Kelley et al. reference further does not provide the needed teaching in combination with the Rabowsky reference. The Kelly et al. reference discloses a television event bookmarking system in which viewers individually bookmark certain programs or advertisements to facilitate later recall by pressing a specified button (select button 15) on their remote control device (Kelley et al., col.2, lines 37 - 65). A signal is then stored in a network access device (e.g., the television or a local personal computer), and is then later transmitted to a central location when the viewer indicates (using a network access button 16) that he or she is ready to view the program or advertisement (Kelley et al., col.2, line 66 - col.3, lines 11 and 53). The bookmark signal includes the date, time and regional location from which the bookmark button was activated. This data is used at the central location to look up the program or advertisement that was being broadcast at the time that the specified button was activated. For example, the system looks up what program or advertisement was being broadcast at that time and location by referencing a TV show schedule (52) and TV advertisement schedule (50) (Kelley et al., col.3, lines 11 - 28).

The bookmark information from each viewer is also disclosed to be used by the system to generate a set of associated internet locations or websites using the database of TV schedules and events as well as company information (Kelley et al., col.2, lines 48 - 51). When the select button (16) is activated, a set of associated further information such as internet websites is then made available to the viewer. This associated further information is also pre-defined and does not involve any automated selection to develop a schedule (Kelley et al., col.5, lines 60 - 65).

The Kelley et al. reference also discloses automated custom program schedule methods by which a viewer may pre-bookmark programs prior to viewing the programs by accessing an on-line broadcast event listing (Kelley et al., col.6, lines 3 - 43). Again, however, the system of

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Kelley et al. does not involve any automated selection process, let alone an automated selection process for selecting a plurality of actual movie showings associated with a plurality of selected job requests to determine a schedule.

Claim 27 requires, in part, that the system select a plurality of selected actual movie showings from the plurality of actual movie showings associated with a plurality of selected job requests from the plurality of job requests. This selection is done using a computer processing system and is done to determine a schedule associated with each of the selected actual movie showing. The selection is determined such that each selected actual movie showing includes at least one of a movie genre, a movie rating, a showing location, a movie showing time, a movie release start date and a movie release end date in common with a movie genre, a movie rating, a showing location, a movie showing time, a movie release start date and a movie release end date of an associated advertising schedule request of each selected job request.

No possible combination of the teachings of Rabowsky and Kelley et al. achieves such a system at least because neither of the references discloses a selection means for selecting a plurality of actual movie showings associated with a plurality of selected job requests. Moreover, there is also no motivation in either of their teachings to combine the references, and it is not at all clear what type of system would result from such a combination.

The test for obviousness under §103 is whether the subject matter of the claims would have been obvious at the time of the invention to one of ordinary skill in the art in view of the cited references. 35 U.S.C. §103(a). As stated by the Court of Appeals for the Federal Circuit:

> To reach a proper conclusion under §103, the decisionmaker must step backward in time and into the shoes worn by a person having ordinary skill in the art when the invention was unknown and just before it was made.

In re Fine, 837 F.2d 1071, 1074, 5 U.S.P.Q.2d 1586, 1598 (Fed. Cir. 1988).

A rejection under §103 must rest on a factual basis without hindsight reconstruction of the invention from the prior art. In establishing a *prima facia* case of obviousness, it is incumbent on the examiner to provide a reason why one of ordinary skill in the art would have been led to modify a prior art reference or to combine reference teachings to arrive at the claimed invention. Ex parte Clapp, 227 U.S.P.Q. 972, 973 (Bd.Pat.App.&Int. 1985). The requisite motivation must stem from some teaching, suggestion or inference in the prior art as a whole or from the knowledge generally available to one of ordinary skill in the art and not from the applicant's own disclosure. Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1052, 5 U.S.P.Q.2d 1434, 1452 (Fed. Cir. 1988), *cert denied*, 488 U.S. 825, 102 L.Ed.2d 51, 109 S.Ct. 75 (1988). A sustainable rejection under § 103, therefore, requires more than modifying the prior art to achieve the claimed invention. The "mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification." In re Gordon, 933 F.2d 900, 902, 221, U.S.P.Q. 1125, 1127 (Fed. Cir. 1984).

Applicant respectfully submits that claim 27 is not rendered obvious under §103(a) over the Rabinowsky and Kelley et al. references. The final rejection of claim 27, therefore, should be reversed.

Claim 28

Claim 28 depends from claim 27 and further requires that the automated selection means selects *a plurality of selected job requests* associated with *each selected actual movie showing*. Neither the Rabinosky and Kelley et al. references disclose an automated selection means of claim 27. The Rabowsky reference does not disclose the generation of any schedule, and the Kelley et al. reference discloses at best the use of look-up tables for determining what program

or advertisement was (or is to be) shown at a given time and location. The determination of associated websites in Kelley et al. also appears to be achieved through the use of a look-up table.

The office action states that "Official Notice is taken that it is old and well known for theatres to display a plurality of advertisements and trailers while the audience is waiting for the actual movie showing to start" (Final Office Action, page 4). Even with such official notice (which is not verified), this does not render obvious a computer based system that performs an automated dynamic selection process as claimed in claim 28. The fact that individual persons conventionally generated such schedules for each individual showing does not render obvious an automated computer based system for achieving such selection. The final rejection of claim 28, therefore, should be reversed.

Claim 38

Independent claim 38 is directed to a system for providing advertisements to an audience and includes, in part, job request means for receiving a plurality of job requests, each of which includes data representative of content and data representative of a content schedule. Claim 38 further states that the automated scheduling means determines a schedule for *each* actual movie showing that includes data identifying data representative of content from *a selected plurality of job requests* such that each actual movie showing associated with each schedule includes audience common interest data that matches at least some of the data representative of a content schedule request included with each associated selected job request. Again, the Rabowsky reference does not disclose the generation of any schedule, and the Kelley et al. reference discloses at best the use of look-up tables for determining what program or advertisement was

(or is to be) shown at a given time and location. Neither reference in any combination teaches developing a schedule that includes data representative of content from a selected plurality of job requests for each actual movie showing. The final rejection of claim 38, therefore, should be reversed.

Claim 29

Claim 29 depends from claim 27 and further requires that the automated selection means selects *a plurality of selected actual movie showings* associated with *each selected job request*. Again, the Rabowsky reference includes no disclosure or teaching of the generation of any schedule, and the Kelley et al. reference discloses the use of look-up tables only. The dynamic selection process of selecting a plurality of selected actual movie showings associated with each selected job request is not disclosed, taught or suggested in either of these references. Again, the official notice that it is well known for theatres to present many of,the same advertisements and trailers to audiences awaiting the start of different actual movie showings does not render obvious a computer based system that performs an automated dynamic selection process as claimed in claim 29. The final rejection of claim 29, therefore, should be reversed.

Claim 30

Claim 30 depends from claim 27 and further requires that the system includes a *movie attendance feedback unit* for receiving data representative of information regarding a number of people attending each selected actual movie showing. Notwithstanding the statement in the office action that the cited prior art disclose an audience attendance feedback unit that tracks the number of people attending each actual move showing, no such disclosure exists in the

Rabinowksy and Kelley et al. references. Column 5, lines 43 - 46 of the Rabinowsky reference states that "the exhibitor can use the data link to make inquiries of all kinds, update information, provide statistical information, and to pay for services electronically." Column 10, lines 28 - 30 of the Rabinowsky reference discloses that:

> An automation system (described below) delivers each cinema file
> to a secure projector system at a time specified and authorized by
> the CAS. Since movies are often transferred to different screens
> within a given theatre based on audience size, the DMS manages
> such transfers upon verification and authorization by local theatre-
> generated instructions.

Rabinowsky, col.10, lines 28 - 31. Neither of these portions of the Rabinowsky reference, nor any other portions of the Rabinowsky reference discloses, teaches or suggests a movie attendance feedback unit as claimed in claim 30. The final rejection of claim 30, therefore, should be reversed.

Claim 41

Claim 41 depends from claim 38 and also further requires that the system includes *audience attendance feedback means* for receiving data representative of information regarding the number of people attending each selected actual movie showing. Neither of these portions of the Rabinowsky reference, nor any other portions of the Rabinowsky reference discloses, teaches or suggests a movie attendance feedback unit as claimed in claim 41. The final rejection of claim 41, therefore, should be reversed.

Claim 31

Claim 31 depends from claim 27 and further requires that the system includes an *exposure log generation unit*. The Rabinowsky reference, however, discloses only that an

Entitlement Management Center (EMC) receives data from an exhibitor/subscriber Smart Card, and that such data includes exhibitor/subscriber identification, stored transactional information such as number of playbacks and equipment status reports (Rabinowsky, col.7, lines 7 - 11). The Rabinowsky reference also discloses that a historical database is maintained regarding the accessing of cinema files, and provides status reports regarding purging and exception reports when scheduled purging operations fail to occur. The Rabinowsky reference does not disclose, teach or suggest providing an exposure log regarding the presentation of advertisements associated with selected job requests. Reports regarding the accessing and purging of cinema files does not render obvious the generation of exposure log generation reports as claimed in claim 31. The final rejection of claim 31, therefore, should be reversed. Claim 37 depends from claim 27 and further requires that the system provides an exposure report. The final rejection of claim 37, therefore, should be reversed.

Claim 42

Claim 42 depends from claim 38 and also further requires that the system includes *exposure log generation means* for recording data representative of the presentation of content associated with each selected job request. Neither of these portions of the Rabinowsky reference, nor any other portions of the Rabinowsky reference discloses, teaches or suggests an exposure log generation means as claimed in claim 42. The final rejection of claim 42, therefore, should be reversed.

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Claim 32

Claim 32 depends from claim 27 and further requires that the audience common interest data includes information regarding a *movie rating*. None of the portions of the Rabinowsky reference that are listed in the office action as allegedly disclosing that such selection made in claim 27 is based on movie rating, even discloses the use of a movie's rating in any way. There is, in fact, no mention of a movie's rating in the Rabinowsky reference. The final rejection of claim 32, therefore, should be reversed.

Claim 33

Claim 33 depends from claim 27 and further requires that the audience common interest data includes information regarding the *time of day that a movie is scheduled to be shown*. None of the portions of the Rabinowsky reference that are listed in the office action as allegedly disclosing that such selection made in claim 27 is based on the time of day that a movie is scheduled to be shown. There is no mention of any automated selection in the Rabinowsky reference, and no mention of any automated selection at all be based on the time of day that a movie is scheduled to be shown. The final rejection of claim 33, therefore, should be reversed.

Claim 34

Claim 34 depends from claim 27 and further requires that the audience common interest data includes information regarding *whether* the time of day that a movie is scheduled to be shown is the *first showing of the movie in that theatre*. Again, none of the portions of the Rabinowsky reference that are listed in the office action as allegedly disclosing that such selection made in claim 27 is based on whether the time of day that a movie is scheduled to be

shown is the first showing of the movie in that theatre. There is no mention of any automated selection in the Rabinowsky reference, and no mention of any automated selection at all be based on whether the time of day that a movie is scheduled to be shown is the first showing of the movie in that theatre. The final rejection of claim 34, therefore, should be reversed.

Claim 35

Claim 35 depends from claim 27 and further requires assembly means for assembling a *plurality of frames* into a *composite frame*. The Rabinowky reference discloses in Figure 3 not a plurality of frames as stated in the office action, but the use of multiple tiles for forming a single frame (Rabinowsky, Figure 3 and col.11, lines 11 - 46). In fact, the Rabinowsky reference discloses that seams between the tiles are eliminated so that cracks are not visible to the observer (Rabinowsky, col.11, lines 31 - 35). The final rejection of claim 35, therefore, should be reversed.

Claim 36

Claim 36 depends from claim 35 and further requires that the composite frame is displayed by a digital projector. Again, the projector system of claim 35 provides for the projection of a single frame, not a plurality of frames as a composite frame. There is no teaching or suggestion of the use of a composite frame, let alone a single digital projector system for providing a composite frame. The final rejection of claim 36, therefore, should be reversed.

Claim 39

Claim 39 depends from claim 38 and further requires that the schedule of content for each actual movie showing comprises an *entire presentation* in advance of a movie that is scheduled to be shown at the associated actual movie showing. The Rabinowsky reference discloses the distribution of cinema files with trailers in accordance with a pre-determined schedule, and states that the theatre operator may modify the schedule (Rabinowsky, col.12, lines 17 - 28). Such modifications, however, do not result in an entire presentation in advance of a movie. Neither the Rabinowsky nor the Kelley et al. references teaches or suggests the subject matter of claim 39 in any combination. The final rejection of claim 39, therefore, should be reversed.

Claim 40

Claim 40 depends from claim 38 and further requires that the automated scheduling means includes *duplicate resolution means* for identifying any of duplicate content within a schedule of content. The statements in the office action that it would have been obvious to one of ordinary skill in the art to check for duplicates in no way renders obvious an automated process for identifying duplicate content using a computer processing system, particularly in a system in which a schedule is automatically developed for each actual movie showing that includes data representative of content from a plurality of selected job requests. Neither the Rabinowsky nor the Kelley et al. references teaches or suggests such subject matter in any combination. The final rejection of claim 40, therefore, should be reversed.

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Claim 43

Independent claim 43 is directed to a method of providing advertisement information to an audience that includes the steps of receiving and storing a plurality of job requests (including advertisement schedule request date), storing a plurality of actual movie showings (including audience common interest date), and processing the audience common interest data and the advertising schedule data using a computer processing system to determine a schedule for *each* of a plurality of actual movie showings such that *each schedule* includes data associated with a *plurality of job requests*. There is no teaching or suggestion in the Rabinowsky or Kelley et al. references of computer based processing of such data to determine a schedule, or a disclosure of developing a schedule to each of a plurality of movie showings, or a disclosure of developing a schedule that includes data associated with a plurality of job requests. Neither the Rabinowsky nor the Kelley et al. references in any combination teaches or suggests a process as claimed in claim 43. The final rejection of claim 43, therefore, should be reversed.

Claim 44

Claim 44 depends from claim 43 and further requires that the step of processing the common interest data and the schedule request data using the computer processing system to determine the schedule for each of the plurality of actual movie showings involves determining an *entire presentation* in advance of a movie that is scheduled to be shown at the associated actual movie showing. Again, the Rabinowsky reference discloses the distribution of cinema files with trailers in accordance with a pre-determined schedule, and states that the theatre operator may modify the schedule (Rabinowsky, col.12, lines 17 - 28). Such modifications do not result in an entire presentation in advance of a movie. Neither the Rabinowsky nor the

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Kelley et al. references teaches or suggests the subject matter of claim 44 in any combination. The final rejection of claim 44, therefore, should be reversed.

Claim 45

Claim 45 depends from claim 43 and further requires the step of receiving data representative of information regarding *a number of people attending* each of the plurality of actual movie showings. As discussed above in connection with claims 30 and 41, none of the portions of the Rabinowsky reference cited in the office action, nor any other portions of the Rabinowsky or Kelley et al. references, discloses, teaches or suggests the step of receiving data representative of information regarding a number of people attending each of the plurality of actual movie showings. The final rejection of claim 45, therefore, should be reversed.

Claim 46

Claim 46 depends from claim 43 and further requires the step of generating an *exposure log* that includes data representative of the presentation of advertisements associated with the *plurality of job requests* that are associated with *each* schedule for *each* of the actual movie showings. As discussed above in connection with claims 31 and 42, the Rabinowsky reference does not disclose, teach or suggest the generation of an exposure log regarding the presentation of advertisements associated with selected job requests. Reports regarding the accessing and purging of cinema files does not render obvious the step of generating an exposure log, nor the generation of an exposure log that includes data representative of the presentation of advertisements associated with a plurality of job requests associated with each schedule for each actual movie showing. The final rejection of claim 46, therefore, should be reversed.

Claim 47

Claim 47 depends from claim 43 and further includes the step of assembling a plurality of advertisements of each schedule into a *composite frame*. As discussed above in connection with claim 35, the Rabinowky reference discloses in Figure 3 not a plurality of frames as stated in the office action, but the use of multiple tiles for forming a single frame (Rabinowsky, Figure 3 and col.11, lines 11 - 46). Again, the Rabinowsky reference discloses that seams between the tiles are eliminated so that cracks are not visible to the observer (Rabinowsky, col.11, lines 31 - 35). The final rejection of claim 47, therefore, should be reversed.

VIII. Claims Appendix

The pending claims are as follows. Claims 27 - 47 are being appealed.

1. - 26. (Canceled).

27. A system for providing advertisement information to an audience, said system comprising:

job request means for receiving a plurality of job requests, each job request including data representative of an advertisement and data representative of an advertising schedule request, said data representative of an advertising schedule request including at least one of a requested movie genre, a requested movie rating, a requested showing location, a requested showing time, a requested movie release start date and a requested movie release end date;

storage means for receiving and storing said plurality of job requests;

actual movie showing storage means for storing a plurality of actual movie showings, each actual movie showing including actual movie showing data that is representative of a movie

showing identification and audience common interest data, said audience common interest data

including data that is representative of at least one of a movie genre, a movie rating, a showing

location, a movie showing time, a movie release start date and a movie release end date;

automated selection means for selecting a plurality of selected actual movie showings

from said plurality of actual movie showings associated with a plurality of selected job requests

from said plurality of job requests using a computer processing system to determine a schedule

associated with each said selected actual movie showing such that each selected actual movie

showing includes at least one of a movie genre, a movie rating, a showing location, a movie

showing time, a movie release start date and a movie release end date in common with a movie

genre, a movie rating, a showing location, a movie showing time, a movie release start date and a

movie release end date of an associated advertising schedule request of each selected job request;

and

presentation means for presenting an advertisement associated with each selected job

request at each associated selected actual movie showing in accordance with the associated

schedule.

28.   The system as claimed in claim 27, wherein said automated selection means selects a

plurality of selected job requests associated with each selected actual movie showing.

29.   The system as claimed in claim 27, wherein said automated selection means selects a

plurality of selected actual movie showings associated with each selected job request.

30. The system as claimed in claim 27, wherein said system further includes a movie attendance feedback unit for receiving data representative of information regarding a number of people attending each selected actual movie showing.

31. The system as claimed in any of claim 27, wherein said system further includes an exposure log generation unit for recording data representative of the presentation of advertisements associated with the selected job requests that are associated with each selected actual movie showing.

32. The system as claimed in claim 27, wherein said audience common interest data includes information regarding a movie rating.

33. The system as claimed in claim 27, wherein said audience common interest data further includes information regarding the time of day that a movie is scheduled to be shown.

34. The system as claimed in claim 27, wherein said audience common interest data further includes information regarding whether the time of day that a movie is scheduled to be shown is the first showing of the movie in that theatre.

35. The system as claimed in claim 27, wherein said system further includes assembling means for assembling a plurality of frames into a composite frame.

36. The system as claimed in claim 35, wherein said presentation means includes a digital projector and said composite frame is displayed by said digital projector.

37. The system as claimed in claim 27, wherein said system provides an exposure report.

38. A system for providing advertisement information to an audience, said system comprising:

job request means for receiving a plurality of job requests, each job request including data representative of a content and data representative of a content schedule request, said data representative of a content schedule request including at least one of a requested movie genre, a requested movie rating, a requested showing location, a requested showing time, a requested movie release start date and a requested movie release end date;

storage means for receiving and storing said plurality of job requests;

actual movie showing storage means for storing a plurality of actual movie showings, each actual movie showing including actual movie showing data that is representative of a movie showing identification and audience common interest data, said audience common interest data including data that is representative of at least one of a movie genre, a movie rating, a showing location, a movie showing time, a movie release start date and a movie release end date;

automated scheduling means for determining a schedule for each of said actual movie showings using a computer processing system, each such schedule including data identifying data representative of content from a selected plurality of job requests such that each actual movie showing associated with each schedule includes audience common interest data that matches at least some of the data representative of a content schedule request included with each associated selected job request; and

a plurality of presentation assemblies, each of which presents content in accordance with the schedule associated with each of said plurality of actual movie showings at a plurality of associated locations.

39. The system as claimed in claim 38, wherein each said schedule of content for each of said plurality of actual movie showings comprises an entire presentation in advance of a movie that is scheduled to be shown at the associated actual movie showing.

40. The system as claimed in claim 38, wherein said automated scheduling means includes duplicate resolution means for identifying any of duplicate content within a schedule of content.

41. The system as claimed in claim 38, wherein said system further includes a movie attendance feedback means for receiving data representative of information regarding the number of people attending each selected actual movie showing.

42. The system as claimed in any of claim 38, wherein said system further includes an exposure log generation means for recording data representative of the presentation of content associated with each selected job requests.

43. A method of providing advertisement information to an audience, said method comprising the steps of:

    receiving a plurality of job requests, each job request including data representative of an advertisement and data representative of an advertising schedule request, said data representative of an advertising schedule request including at least one of a requested movie genre, a requested movie rating, a requested showing location, a requested showing time, a requested movie release start date and a requested movie release end date;

    storing said plurality of job requests;

    storing a plurality of actual movie showings, each actual movie showing including actual movie showing data that is representative of a movie showing identification and audience

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common interest data, said audience common interest data including data that is representative of at least one of a movie genre, a movie rating, a showing location, a movie showing time, a movie release start date and a movie release end date;

processing said common interest data and said data representative of advertising schedule requests using a computer processing system to determine a schedule for each of said plurality of actual movie showings, each such schedule including data associated with a plurality of job requests such that each actual movie showing associated with each schedule includes audience common interest data that matches at least some of the data representative of an advertising schedule request included with each associated job request; and

presenting advertisements in accordance with the schedule associated with each of said plurality of actual movie showings at a plurality of associated locations.

44. The method as claimed in claim 43, wherein said step of processing said common interest data and said data representative of schedule requests to determine the schedule for each of said plurality of actual movie showings involves determining an entire presentation in advance of a movie that is scheduled to be shown at the associated actual movie showing.

45. The method as claimed in claim 43, wherein said method further includes the step of receiving data representative of information regarding a number of people attending each of said plurality of actual movie showings.

46. The method as claimed in claim 43, wherein said method further includes the step of generating an exposure log that includes data representative of the presentation of advertisements

associated with said plurality of job requests that are associated with each said schedule for each of said plurality of actual movie showings.

47.   The method as claimed in claim 43, wherein said method further includes the step of assembling a plurality of advertisements of each schedule into a composite frame, and said step of presenting advertisements includes presenting said composite frame.

IX.   Evidence Appendix

There is no further evidence that bears on the issues in the present appeal.

X.   Related Proceedings Appendix

There are no decisions rendered by a court or the Board in any proceeding identified above pursuant to 37 C.F.R. §41.37(c)(1)(ii).

XI.   Conclusion

For the foregoing reasons, applicant respectfully requests that the Board of Patent Appeals and Interferences reverse the Examiner's final rejection of each of claims 27 - 47.

Respectfully submitted,

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